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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,105	03/16/2004	Carl Winefordner	SLIP-20	3218
1054	7590	09/19/2006	EXAMINER	
LEONARD TACHNER, A PROFESSIONAL LAW CORPORATION 17961 SKY PARK CIRCLE, SUITE 38-E IRVINE, CA 92614			YOUNG, EDWIN	
			ART UNIT*	PAPER NUMBER
			3681	

DATE MAILED: 09/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/802,105

Applicant(s)

WINEFORDNER ET AL.

Examiner

Edwin A. Young

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 11-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/16/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed on 8/28/2006. Claims 1-5 and 11-13 have been amended. Claims 1-6 and 11-13 are currently pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4, 6, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by TREVIZO (U.S. 4,882,945).

Regarding claim 1, TREVIZO teaches an improved bicycle pedal and crank arm (see Figs. 1-3) comprising a clipless bicycle pedal (16) having a fixed shaft (26); a crank arm (see column 1, lines 28-30, (10) and (23)) having a rotatable bearing (31) for receiving said fixed shaft and allowing relative rotation between said clipless bicycle pedal and said crank arm.

Regarding claim 4, TREVIZO teaches an improved bicycle pedal and crank arm (see Figs. 1-3) comprising a bicycle pedal (16) having a fixed shaft (26); a crank arm (see column 1, lines 28-30, (10) and (23)) having a rotatable bearing (31) for receiving said fixed shaft and allowing relative rotation between said pedal and said crank arm; and wherein said bearing is a cartridge bearing (31).

Regarding claim 6, TREVIZO teaches said pedal and shaft, as in claim 1, integrated as a unitary body (see column 2, lines 18-21).

Regarding claim 13, TREVIZO teaches a bicycle crank arm having one end (10) for rotational attachment to a bicycle frame and another end (23) for receiving a bicycle pedal; the crank arm comprising an aperture for receiving a bearing (31) at said pedal receiving end, said bearing being adapted for receiving a pedal shaft (26) for rotation of said shaft in said crank arm; and wherein said bearing is a cartridge bearing (31).

4. Claims 1-3 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by FAN (U.S. 5,634,382).

Regarding claim 1, FAN teaches a bicycle pedal and crank arm (see Fig. 1) comprising a clipless bicycle pedal with a fixed shaft (1); and a crank arm (2) having a rotatable bearing (3) for receiving said fixed shaft and allowing relative rotation between said clipless bicycle pedal and said crank arm.

Regarding claim 2, FAN teaches a bicycle pedal and crank arm (see Fig. 1) comprising a bicycle pedal with a fixed shaft (1); a crank arm (2) having a rotatable bearing (3) for receiving said fixed shaft and allowing relative rotation between said pedal and said crank arm; and wherein said bearing is secured to said crank arm by a retainer (34).

Regarding claim 3, FAN teaches a bicycle pedal and crank arm (see Fig. 1) comprising a bicycle pedal with a fixed shaft (1); a crank arm (2) having a rotatable bearing (3) for receiving said fixed shaft and allowing relative rotation between said pedal and said crank arm; and wherein said bearing is sealed ((33) and (34)).

Regarding claim 6, FAN teaches the bicycle pedal and crank arm of claim 1 wherein said pedal and shaft are integrated as a unitary body (1).

5. Claims 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by TRANVOIZ (U.S. 5,440,950).

Regarding claim 11, TRANVOIZ teaches a bicycle crank arm (see Fig. 1 (4)) having one end for rotational attachment to a bicycle frame and having another end for receiving a bicycle pedal; the crank arm (4) comprising an aperture for receiving a bearing (2) at said pedal receiving end, said bearing being adapted for receiving a pedal shaft (1) for rotation of said shaft in said crank arm; and wherein said bearing (2) is secured to said pedal receiving end by a retainer (12-14) (see Abstract).

Regarding claim 12, TRANVOIZ teaches a bicycle crank arm (see Fig. 1 (4)) having one end for rotational attachment to a bicycle frame and having another end for receiving a bicycle pedal; the crank arm (4) comprising an aperture for receiving a bearing (2) at said pedal receiving end, said bearing being adapted for receiving a pedal shaft (1) for rotation of said shaft in said crank arm; and wherein said bearing (2) is sealed (see Fig. 8 (11) and column 4, lines 5-9).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over TRANVOIZ in view of TREVIZO.

Regarding claims 2, 3, and 5 TRANVOIZ teaches a bicycle pedal and crank arm (see Fig. 1) having a crank arm (4) provided with a rotatable bearing (2) for receiving a shaft (1) and allowing relative rotation between a pedal and said crank arm; said bearing (2) being secured to said crank arm (4) by a retainer (12-14) (see Abstract), as in claim 2; said bearing (2) being sealed (see Fig. 8 (11) and column 4, lines 5-9); and said bearing (2) being a bushing (see Fig. 8 (2) and column 4, lines 1-3). However, TRANVOIZ does not teach a bicycle pedal having a fixed shaft.

TREVIZO teaches a bicycle pedal (16) having a fixed shaft (26).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have provided the bicycle pedal and crank arm assembly of TRANVOIZ with a bicycle pedal having a fixed shaft, in light of the teachings of TREVIZO, in order to reduce the manufacturing components and costs of the pedal assembly.

Response to Arguments

8. Applicant's arguments filed 8/28/2006 have been fully considered but they are not persuasive.

Applicant argues that TREVIZO discloses a "hub bearing not a cartridge bearing." However, the "bearing" (31) taught by TREVIZO is in fact referred to as a bearing hub bearing (see column 1, lines 29-31 and column 2, lines 4-6). Therefore, the bearing being argued is in fact a bearing disposed in the bearing hub. Since no further description of the bearing is given by TREVIZO, Fig. 2 supplies the most accurate depiction of said bearing (31). According to Webster's II Dictionary (Third Edition), a

“cartridge” is “a removable unit of equipment ... designed to fit into a larger piece of equipment.” Since applicant’s disclosure does not provide a more precise definition for “cartridge,” it must be assumed that the standard definition of the word applies.

Therefore, based on TREVIZO Fig. 2, it is apparent that bearing (31) is designed as a removable unit of equipment designed to fit into a larger piece of equipment (23), and is therefore considered a cartridge bearing.

Applicant argues, “None of the cited art shows a clipless pedal having a fixed shaft.” However, both TREVIZO and FAN clearly show pedals fixed to a shaft. Furthermore, neither reference shows a pedal having a “clip.” The term “clipless,” in its most basic understanding, refers to a pedal devoid of a toe clip. Since neither reference shows a toe clip, it is presumed that they are in fact “clipless.”

Applicant argues, TRANVOIZ uses a “bearing still in the pedal.” However, the bearing (Fig. 1 (2)) is in fact in the crank (4). Applicant argues that “the ring [(2)] ... is only to create a smooth bore for the pedal shaft.” However, the ring (2) does in fact perform the same function as a bearing, “[creating] a smooth bore for the pedal shaft.” Therefore, applicant’s argument that the ring is not a bearing is not persuasive.

Applicant argues that TRANVOIZ uses the word “bearing” to “describe the end of the pedal shaft which is inserted into the arm” and “the meaning of the word in this context is “to hold up, support”, not a rotational bearing.” In fact, TRANVOIZ does describe the bearing (2) as being used as a rotational bearing for the shaft (1) (see column 3, lines 36-41).

Applicant argues, "the FAN invention ... bearing is not retained in the arm" and "the bearing is still part of the pedal." However, from Fig. 3 it is apparent that the bearing (3) is retained in the arm (2) by member (34) and that the pedal (1) is screwed into bearing (3).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., limited ground clearance, turning angle, and "Q-factor") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With respect to Rejection No. 4, TRANVOIZ does disclose a rotational bearing in a crank arm, as discussed above.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin A. Young whose telephone number is 571-272-4781. The examiner can normally be reached on M-F 8-3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EAY

Charles A. Marmor 9/15/06
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